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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

PATRICK INSCHO, on behalf of himself  
and all others similarly situated,

Plaintiff,

v.

EQUIFAX INFORMATION SERVICES,  
LLC,

Defendant.

Case No.: 2:18-cv-00790-MMD-VCF

**STATUS REPORT ON DATABASE  
DISCOVERY AND ESI ISSUES**

Plaintiff Patrick Inscho (“Plaintiff”) and Defendant Equifax Information Services,  
LLC (“Defendant”) (collectively, the “parties”) by and through their counsel submit this

1 status report on database discovery and ESI issues pursuant to the scheduling order in this  
2 case. (ECF No. 27 at 4).

3 **Plaintiff's Position:** The case alleges that Defendant systematically failed to  
4 timely update Nevada public records included on Defendant's credit reports, resulting in  
5 tax liens and civil judgments being reported as outstanding when in fact they were  
6 satisfied. Equifax does not go to the courthouse or relevant governmental agency to  
7 collect and update public records. Instead, it purchases public records from data vendor  
8 LexisNexis. While some of the public records are never updated in Equifax's system,  
9 many records are eventually updated, albeit many months after the lien or judgment has  
10 been released, expunged, vacated, or otherwise satisfied. Plaintiff seeks to represent a  
11 class of all consumers who had an inaccurate Nevada public record on a credit report that  
12 was not timely updated by Equifax. In *Soutter v. Equifax Info. Servs., LLC*, 307 F.R.D.  
13 183 (E.D. Va. 2015), the court certified a class of Virginia consumers who alleged that the  
14 credit reporting agency failed to use reasonable procedures in updating civil judgment  
15 information.

16 A significant issue in this case will be determining what data Equifax should  
17 produce on putative class members. Plaintiff has served requests for production setting  
18 forth what specific information Plaintiff would like produced regarding individual class  
19 members. Defendant has asserted that such production would be burdensome but has not  
20 provided any specifics regarding the purported burden or clarified what information is  
21 exportable from Defendant's systems. The parties have met and conferred on multiple  
22 occasions but little progress has been made.

23 The primary roadblock is Defendant's failure to be forthright and collaborative in  
24 providing information regarding Defendant's databases. See *Kelley v. Smith's Food &*  
25 *Drug Centers, Inc.*, No. 2:14-CV-00856-RCJ, 2014 WL 6474026, at \*3 (D. Nev. Nov. 19,  
26 2014) (noting "the paramount goals of transparency, collaboration, and efficiency" and  
27

1 promotion of “open and forthright information sharing to facilitate cooperative,  
2 collaborative, transparent discovery”). To obtain the relevant information regarding the  
3 information contained in Defendant’s systems and the ability to export that information,  
4 Plaintiff has noticed a limited Rule 30(b)(6) deposition and Rule 30(b)(1) depositions of  
5 Defendant’s technical personnel for October. Plaintiff requests that the Court order that  
6 such depositions be completed by the end of October.

7 Defendant has proposed that Plaintiff be required to obtain the public records from  
8 the relevant government entities, then provide it to Defendant *before* Defendant produces  
9 any data regarding putative class members. This proposal is unacceptable for at least  
10 three reasons. First, because many public records are eventually updated, albeit belatedly,  
11 Defendant should be able to identify class members from the data Defendant already has  
12 in its system. Second, and more importantly, Defendant’s proposal does not resolve the  
13 issues regarding the capabilities of Defendant’s systems to export the requested data into a  
14 usable format. Third, in this scenario, Defendant may be tempted to scrub the data it  
15 would be required to produce to reduce potential liability for these claims.

16 Thus, Plaintiff request the Court order that the database depositions be completed  
17 by October, and that the parties submit another status report by November 9, 2018.  
18 Plaintiff further requests that the Court schedule a discovery conference for mid-  
19 November so that the parties can identify any as-yet unresolved issues and work with the  
20 Court to plan to expeditiously resolve those issues.

21 **Defendant’s Position:**

22 Plaintiff is incorrect that Equifax systematically failed to timely update Nevada  
23 public records. And, for many reasons, the Court’s ruling in *Soutter v. Equifax Info.*  
24 *Servs., LLC*, 307 F.R.D. 183 (E.D. Va. 2015) is inapposite, including due to the different  
25 manner in which public records are maintained and stored by the various government  
26 entities.

1 As explained in the Discovery Plan and Proposed Scheduling Order filed with the  
2 Court on July 19, 2018 (Doc. 26), and in Equifax’s discovery responses, to pursue class  
3 treatment, Plaintiff has the burden to obtain public records—specifically, Nevada tax lien  
4 disposition data—from the relevant government entities. Plaintiff has not disputed this.  
5 And unless and until Plaintiff carries that burden—which he has not done to date—  
6 Equifax should not be required to embark on the time-consuming, costly, and burdensome  
7 task of searching through its archived data for a voluminous amount of information that is  
8 not reasonably accessible (if it is available at all) and that is not probative absent the  
9 underlying tax lien disposition data. Moreover, Plaintiff’s suggestion that Equifax might  
10 “scrub” its data to reduce its liability in this case is as baseless as it is counterproductive.

11 Contrary to Plaintiff’s suggestion, Equifax has engaged in multiple discussions  
12 with Plaintiff’s counsel regarding (among other things) the limitations on its ability to  
13 search its archived data in the manner proposed by Plaintiff. The most recent of those  
14 discussions just occurred on September 20, 2018. Equifax’s counsel has explained to  
15 Plaintiff’s counsel that there are significant limitations on the company’s ability to do  
16 what Plaintiff proposes, but that counsel nonetheless is willing and ready to continue  
17 engaging in discussions with Plaintiff’s counsel to determine what progress can be made  
18 before burdening the Court with unnecessary discovery disputes.

19 Equifax has also engaged in discussions with Plaintiff regarding his request for  
20 information pertaining to Nevada tax lien dispositions in Equifax’s possession—a matter  
21 Plaintiff raised in writing on September 17, 2018 and which the parties discussed as  
22 recently as September 20. Those discussions are ongoing in nature.

23 In short, Plaintiff’s assertion that Equifax has failed to be “forthright and  
24 collaborative”—and that “little progress” has been made—is incorrect.

25 Finally, Equifax is in the process of reviewing the deposition notices Plaintiff  
26 served on September 17, 2018, and will work with Plaintiff regarding the timing and  
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1 scope of any depositions. The parties have not reached any impasse with regard to the  
 2 depositions Plaintiff has noticed, so it is premature for Plaintiff to seek judicial  
 3 intervention regarding the scheduling of those depositions at this time.

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 7 Date: September 21, 2018

/s/John G. Albanese

John G. Albanese (*pro hac vice*)  
 BERGER MONTAGUE PC

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 9 *ATTORNEYS FOR PLAINTIFF*

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 11 Date: September 21, 2018

/s/John C. Toro

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